



**The impact of a new
EU-US Data Protection Framework Agreement
on Europol**

**by
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Dear Mr Chairman,
Honourable members of the LIBE Committee,
Ladies and Gentleman.

On behalf of the Director of Europol, Mr Rob Wainwright, I would like to express our gratitude for the invitation to attend this hearing and for the opportunity to elaborate on the impact that a future EU-US data protection agreement might have on our organisation.

The operational cooperation between Europol and the U.S. is crucial to prevent and combat organised crime, terrorism and other forms of serious crime affecting two or more Member States.

It is institutionalised and put into effect in a number of ways:

Europol hosts U.S. Liaison Officers from various agencies at its premises in The Hague.

On the other hand, our organisation has a Liaison Office directly in Washington, D.C., from which its officials cooperate closely with their U.S. counterparts.

Representatives of the Bureau for Alcohol, Tobacco and Firearms (ATF), FBI, the Drug Enforcement Administration (DEA), the U.S. Secret Service, the US Immigration and Customs Enforcement (ICE) and the U.S. Postal and Inspection Service (USPIS) are associated with 11 out of Europol's 23 analysis work files.

In turn, Europol's analytical capabilities have been instrumental in identifying and capturing criminals, and have generated many leads which have been disseminated for law enforcement purposes around the world, but with particular value for the U.S.

The transatlantic information exchange takes place via 'SIENA', Europol's Secure Information Exchange Network Application. In the design and functioning of SIENA, significant emphasis was put on data protection, confidentiality and security.

Against this background, Europol has a vital interest in strengthening the transatlantic dialogue on data protection in order to overcome possible shortcomings and enhance legal certainty.

Our experience demonstrates that the U.S. and Europe share a lot of common values when it comes to the protection of personal data.

However, there can be no doubt that there are differences in the legal systems in the U.S. and in Europe when it comes to privacy and data protection.

For instance, many things which are explicitly regulated in European data protection legal frameworks are only addressed in far more general terms by the U.S. legislator.

Europol believes that the aim of concluding an EU-US Data Protection Framework should be to pave the way for common solutions which further enhance effective transatlantic cooperation, while fully respecting fundamental rights.

At Europol we are used to operating within a very stringent data protection regime. We are proud to have one of the strongest data protection frameworks in the law enforcement community.

Our main interest in the ongoing discussions is to what extent the future EU-US data protection agreement might impact on Europol's existing Europol cooperation agreement, which forms the legal basis for exchanging personal data with the U.S.

Potential effects on the cooperation between Europol and our transatlantic partners have to be assessed and put into perspective, in particular with a view to existing bilateral cooperation mechanisms between EU Member States and the U.S.

Our main concern in this regard is that Europol will have to apply even stronger data protection standards while Member States maintain their bilateral cooperation models regardless of whether or not they comply with the new EU-US data protection framework.

In other words, the question that needs to be addressed is whether the EU-US framework agreement on data protection should only apply to future sectoral agreements or be extended to also cover existing ones.

This aspect is particularly interesting with a view to already-existing bilateral cooperation agreements between EU Member States and the US.

Some stakeholders might be of the opinion that the inclusion of existing bilateral agreements would be an overly ambitious approach to start with. They argue that an EU-US framework agreement should, as a first step, only be binding for future bilateral agreements and for those of EU institutions.

Europol has serious concerns in that regard. It would potentially lead to a situation where EU institutions and agencies, such as Europol and Eurojust, are bypassed because it is argued that their data protection standards make the exchange of information with the US too complicated.

The risk we see is that Europol would be kept out of the loop because investigators in the field could perceive cooperation via our channels as more cumbersome, while bilateral exchanges between Member States and the U.S. could still be based on potentially less restrictive agreements.

We believe: If we really want to achieve “the availability of full protection for our citizens”, as initially envisaged by the EU-US Ministerial Troika, it should be a binding framework covering all exchanges of personal data between the EU and the US.

This will ensure the same level of data protection, irrespective of the legal basis. This is in the interest of European citizens as it respects their fundamental rights in the most comprehensive manner.

However, it is also in the interest of the law enforcement community to have harmonised data protection rules applied across the board:

Consistent and high standards of data protection lead to high quality data.

Consistent and high standards of data protection, consequently, mean high accuracy of data exchanged.

This is not only crucial for Europol but also for any Member State law enforcement authority conducting bilateral cooperation with the U.S.

To conclude my brief intervention, please allow me to reiterate that an effective operational cooperation between Europol and the U.S. is vital in order to prevent and combat organised crime, terrorism and other forms of serious crime affecting two or more Member States.

The EU-US Data Protection Framework should pave the way for common solutions that further enhance effective transatlantic cooperation while fully respecting fundamental rights.

Europol is fully committed to the highest data protection standards which will – without a doubt – also form the basis for the future EU-US agreement.

However, only a harmonised application of the EU-US data protection agreement will effectively safeguard data subjects’ rights and, at the same time, enhance transatlantic cooperation.

Let me reassure you that Europol is ready to provide its input and support whenever necessary and requested. We are looking forward to participating in future discussions.

Once again, let me express my gratitude for having had the chance to express Europol's view on this important initiative in the context of this LIBE Committee hearing.

Thank you very much for your attention.